

Applicant: Bicek et al.  
Application Serial No.: 09/974,653  
Filing Date: October 10, 2001  
Docket No.: 760-49  
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### **REMARKS**

Reconsideration of the application as amended is respectfully requested.

Presently, claims 17-24 and 39 are under consideration in the application, with claims 1-16 and 25-38 having been withdrawn. Through this amendment, claim 17 has been amended and new claim 39 presented.

Claims 1-38 were originally filed with the application. As noted in the Office Action, the Examiner previously contacted the undersigned and telephonically issued a four-way restriction, which resulted in the election of the claims under Invention III. Accordingly, claims 17-27 were elected. The Examiner also indicated that patentably distinct species of the invention are present with Species 1 corresponding to Figures 1-4 and Species 2 corresponding to Figure 5. In the previous election, Species 2 was also elected. The Examiner further indicated in the Office Action that "[i]t would appear that claims 17-24 relate to Species II in Fig. 5." This assertion, however, is respectfully traversed. In particular, it is respectfully submitted that claims 25-27, which depend from claim 17, also read on the elected species and should be considered in prosecution herein. As indicated above, claims 17-27 were elected. The species of invention corresponding to Figure 5 was elected, and Figure 5 corresponds to the second embodiment of

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the invention to which claims 25-27 are directed. Reversal of the withdrawal of claims 25-27 is respectfully requested.

In the Official Action, the Examiner rejected claims 17-24 under 35 U.S.C. §102(e) as being anticipated by Davila et al. (U.S. Patent No. 6,296,661).

Davila et al. is directed to a self-expanding stent-graft which includes a self-expanding outer stent 60, a tubular flexible porous graft member 70, and a self-expanding inner stent 80. The graft member 70 has front and back ends 70 and 74, respectively, cuffed and bonded to the outer stent 60. (col. 5, lines 5-10). The inner stent 80 is disposed within the graft 70 so as to abut it. (col. 5, lines 18-20).

Claim 17 is directed to a covered stent including a main stent, at least one support stent, and "a sheath interposed between said body and said at least one support stent with no portions of said main stent being in contact with said at least one support stent." Further, claim 17 states "said at least one support stent generates a relative pressing force with said main stent to hold said sheath in place, said pressing force solely acting to hold said sheath in place." As indicated above, the graft in Davila et al. is bonded to the outer stent. Accordingly, the graft is held in place by at least being bonded. With the subject invention, the sheath may be selected and

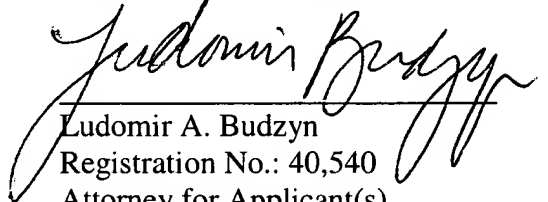
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placed onto the main stent at a point-of-use and fixed thereto by one or more support stents. The Davila et al. device calls for bonding the graft to a stent which is not readily performable at a point-of-use. For example, as pointed out at col. 9, lines 6-8, the graft 70 is bonded to the stent under heat and pressure. (N.B. Davila et al. discloses the use of an expanded polytetrafluoroethylene (ePTFE) graft (col. 8, lines 43-44). Heat and pressure for bonding ePTFE is typically provided for by a pressure oven.) The subject invention contemplates allowing a practitioner to simply apply a sheath and mechanically fix it without bonding. There is no disclosure or suggestion in Davila et al. to avoid bonding the graft to the outer stent. Accordingly, there is no disclosure or suggestion in Davila et al. to solely rely on any pressing force generated by the inner and outer stents to hold the graft in place. It is respectfully submitted that claim 17, along with dependent claims 18-27 and 39, are patentable over Davila et al.

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Favorable action is earnestly solicited. If there are any questions or if additional information is required, the Examiner is respectfully requested to contact applicants' attorney at the number listed below.

Respectfully submitted,

  
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